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RECORD OF DECISION

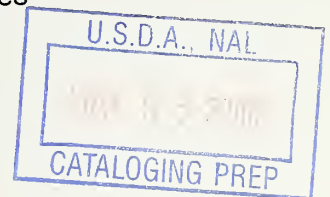
North Fork Coal

Iron Point Coal Exploration License (COC-61945)



U.S.D.A., Forest Service, Region 2
Grand Mesa, Uncompahgre and Gunnison National Forests

Portions of Gunnison, and Delta Counties
Colorado



Approved by:

Robert L. Storch
Forest Supervisor
Grand Mesa, Uncompahgre and Gunnison National Forests

3/27/00
Date

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I. INTRODUCTION

Background

In May of 1998, Bowie Resources Ltd. (Bowie) submitted an application with the U.S. Department of the Interior, Bureau of Land Management (BLM), Colorado State Office, for a coal exploration license (COC-61945) on unleased lands within and adjacent to the designated Iron Point Coal Lease Tract. The exploration area contains approximately 6,053 acres and is shown on Figure 1, General Location Map. The surface lands in the coal exploration license application are National Forest System Lands administered by the U.S. Department of Agriculture, Grand Mesa-Uncompahgre-Gunnison National Forests, Forest Service (Forest Service).

Three federal coal applications were pending before the agencies: the Iron Point Exploration License Application (COC-61945), the Iron Point Coal Lease Tract Application (COC-61209) and the Elk Creek Coal Lease Tract Application (COC-61357). The BLM and the Forest Service determined that the requirements of the National Environmental Policy Act (NEPA) would be best served by preparing a consolidated Environmental Impact Statement (EIS) on the three actions. The BLM and Forest Service are joint lead agencies for the document. The Department of the Interior, Office of Surface Mining is a cooperating agency.

The North Fork Coal Draft EIS was made available to the U.S. Environmental Protection Agency (EPA) and the general public on September 3, 1999, and Notice of Availability for the Draft EIS was published in the Federal Register on that same date. The formal comment period on the Draft EIS ended on November 3, 1999. The Final EIS was made available to EPA and the public on February 25, 2000. The Notice of Availability for the Final EIS was published in the Federal Register on that same date.

Decisions to be Made/Authorities

This Record of Decision (ROD) documents findings specific to actions related to coal exploration on National Forest System Lands administered by the Grand Mesa, Uncompahgre, and Gunnison National Forests (GMUG) as analyzed in the North Fork Coal Final EIS. This ROD documents Forest Service decisions including terms and conditions of any consent for the BLM, Colorado State Office, to allow coal exploration on the GMUG National Forest.

The BLM participated in the analysis as a joint lead agency. The Colorado State Director (BLM Responsible Official) will document the BLM decisions with regard to this action in a separate and distinct ROD. The Forest Supervisor of the GMUG is the NEPA Responsible Official for the Forest Service. The Forest Supervisor must decide whether or not to consent to the BLM authorizing exploration on National Forest System Lands according to the Federal Coal Leasing Amendments Act of 1975 (Final EIS Section 1.5). The Forest Supervisor must also prescribe terms and/or conditions (through stipulations) with respect to the use and protection of non-mineral interests. The decisions made by the Forest Service are site-specific. Such decisions are not programmatic and do not change Forest Plan direction for management of minerals or other resources in the exploration plan area.

This decision does not encompass all resource management practices that may occur within the coal exploration license area. Previous environmental documents, past and ongoing

activities, and reasonably foreseeable activities were identified and included in cumulative effects analyses presented in the Final EIS. Future resource management proposals within the area would have to be considered on their own merits in subsequent decision making.

The licensee will be required to obtain numerous other permits and approvals prior to implementation. Please refer to the Final EIS, Appendix B, Agency Jurisdictions (Permits and Approvals).

Overview of the Project Area

The coal exploration license area (COC-61945) contains unleased coal deposits owned by the United States of America in the following described lands in Delta County, Colorado.

T12S, R91W, 6th PM:

Section 14, lots 7, 8, S $\frac{1}{2}$ S $\frac{1}{2}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$;

Section 22, S $\frac{1}{2}$;

Section 23, lots 1 to 7, inclusive, W $\frac{1}{2}$, and that part of HES No. 133 lying in the S $\frac{1}{2}$ SE $\frac{1}{4}$;

Section 26, lots 1 to 5, inclusive, W $\frac{1}{2}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, and that part of HES No. 133 lying in the NE $\frac{1}{4}$;

Section 27, all;

Section 28, S $\frac{1}{2}$;

Section 29, SE $\frac{1}{4}$;

Section 32, lots 1, 2, 7 to 10, inclusive, lots 15, 16, and NE $\frac{1}{4}$;

Section 33, lots 1 to 16, inclusive, and N $\frac{1}{2}$;

Section 34, lots 1 to 16, inclusive, and N $\frac{1}{2}$;

Section 35, lots 3, and 7 to 22, inclusive, NE $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$, that part of HES No. 134 and that part of lots 4 to 6, inclusive, lying in the S $\frac{1}{2}$ S $\frac{1}{2}$ NE $\frac{1}{4}$.

Containing approximately 6,053.00 acres \pm . All contained on National Forest System Lands within the Paonia Ranger District. The exploration license lies about 7 miles north-northeast of the town of Paonia.

II. DECISIONS AND REASONS FOR DECISIONS

Decision. It is my decision to consent to the BLM issuing the Iron Point Coal Exploration License (CEL), COC-61945. This ROD also documents approval for portions of the plan of operations for the CEL. The decision to consent, along with associated approval of the plan of operations are conditioned on the application of mitigations/stipulations, and terms and conditions as described in Section III, Required Mitigation/Stipulations and Monitoring, of this ROD. Forest Service regulations require the licensee to secure any additional state or federal permits or authorizations required by law. Figure 1, General Location Map, shows the National Forest System Lands covered in this decision.

The portions of the plan of operations for the CEL covered under this decision include approval to drill 18 coal exploration holes. The approved holes are: IP99-4, IP99-5, IP99-6, IP99-7, IP99-8, IP99-10, IP99-11, IP99-12, IP99-13, IP99-15, IP99-19, IP99-20, IP99-21, IP99-23, IP99-24, IP99-25, IP99-26 and IP99-27. This approval also includes approval to construct 1.7 miles of new temporary access roads, and perform 6.5 miles of road reconstruction to access proposed drill sites. Approved drill hole locations are shown on Figure 2, Iron Point Exploration License Application, along with areas where road construction or reconstruction is authorized.

The location of the drilling will be within the windows shown in Figure 2, Iron Point Exploration License Application. Specific locations within the window will be determined by the authorized field representative of the Forest Service as part of the preconstruction conference. Drill holes IPP99-7, IP99-21, and IP99-23 through 27 are being approved with specific conditions as described below.

IPP99-7. This hole is located in the Hubbard Canyon corridor. The proposed access is up Hubbard Canyon from the south, requiring a Forest System Trail (currently listed as a foot and horse trail) to be upgraded, and creating access across a landslide to accommodate large vehicles. The analysis shows that upgrading the old road corridor will adversely impact the riparian vegetation and habitat for riparian obligate species (Final EIS, Section 3.9.3.2). Further, stipulations listed in Appendix I of the Final EIS prohibit surface occupancy in riparian areas. Drilling this hole will be allowed only if the drill pad could be sited outside of the riparian corridor. Upgrading the trail will not be allowed. The drill rig will need to be placed on the site using a helicopter. Access of personnel to the site will be allowed via all terrain vehicles (ATVs), with the provision that the trail be returned at the completion of the project to a trail passable by foot and horse traffic only.

IP99-21. This hole is located on the northern end of Hubbard Canyon. Proposed access is from the north. The access is currently managed as a Forest Designated Trail and will require upgrading to accommodate vehicles. Drilling of this hole will be allowed provided that the drill pad could be placed outside of the riparian corridor. Upgrading the trail is not desirable, therefore, helicopter access for the drill rig and supplies will be necessary. Personnel could access the site from the north on the Forest Designated Trail on foot or horseback. A further cultural resources clearance will be needed for this location.

Potential habitat for the Hapman's Coolwort, a Forest Service sensitive species, may be present in the vicinity of this hole location (Final EIS Section 3.7.2.4, Sensitive Plant Species). The preferred habitat is hanging gardens and wet boulders. A further site specific survey will be needed to ensure that activity will not disturb habitat or individuals of this species.

IP99-23 through 27. These holes are congregated on the south end of Hubbard Canyon. Drilling at these locations will be allowed providing that all the drill sites are located outside

the riparian corridor. The existing road is accessible when dry by four wheel drive vehicles, and will need upgrading to accommodate drill rigs. Upgrading the existing road will be allowed with the provision that the road be returned to original conditions after completion of exploration activities.

The proponent, BRL, submitted changes to their original plan of operations as comments on the Draft EIS. These changes included relocating several of the drill hole locations. Because these revised locations were not available for public disclosure and comment, they cannot be approved in this decision (Final EIS, Appendix O, Public and Agency Participation and Involvement, response 16-2). An additional NEPA process must be conducted to consider approval of the new locations.

Reasons for Decision. The decision is based on several criteria, some of which are summarized in this section. Each alternative was analyzed and compared to Forest Plan goals, objectives, standards and guidelines. Several considerations regarding Forest Plan consistency are reflected in the decision, and they are detailed below. The decision is consistent with the Forest Plan.

Relationship to Issues and Public Comment. The decision considers existing resource conditions and potential environmental effects. This decision considered protection of National Forest resources and resource uses consistent with the applicable laws, regulations, Forest Service Policy and Forest Plan goals and objectives; standards and guidelines, and multiple-use decisions. Please see Section V, Issues Considered and Addressed, for a description of how issues were considered during the decision making process. Public comments were sought and considered throughout the process for this project (Final EIS, Section 1.7 and Appendix O, and Section IV of this ROD). This decision considers the public comments received.

Consistency with Multiple Use Management Direction. The Forest Plan assigns the CEL to two management areas (MA's): MA4B and MA9A (Forest Plan, pages III-114 to 187) which include wildlife habitat and riparian maintenance (Final EIS, Section 1.6.2, Forest Plan Consistency).

The wildlife habitat MA4B emphasizes habitat management for one or more indicator species. Other activities may occur so long as habitat requirements are maintained. The analysis shows minimal impacts for habitat capability (Final EIS, section 3.9.3.2) with appropriate mitigations (see Section III of the ROD).

The riparian MA9A emphasizes management of riparian areas and their component ecosystems. The goals of the management are, in part, to maintain water flows to provide free and unbound water within the soil needed to create the distinctive vegetation community, provide healthy, self-perpetuating plant communities, and provide habitats for viable populations of wildlife and fish. Mineral activities may occur, but such activities must minimize disturbance to the riparian area. This decision incorporates the stipulation that no surface occupancy will be allowed in riparian areas, and therefore responds to the direction for riparian unit management.

Relationship To The Forest Service Natural Resource Agenda. When making this decision, the Forest Service's recent "natural resource agenda" was considered. The agenda states that the first priority of the Forest Service is to maintain and restore the health of ecosystems and watersheds. The agenda also gives watershed protection and ecological restoration the highest priority in the decision making process. This decision incorporates stipulations that prohibit surface occupancy in riparian areas.

Relationship to Purpose and Need. This decision responds to need to obtain additional information on coal resources including extent of coal reserves, coal quality, coal thickness and possible geologic constraints (Final EIS, Section 1.3). Meeting this purpose allows for BLM to meet their responsibility to guarantee that recoverable coal reserves are identified to achieve maximum economic recovery of coal. The decision also responds to a general goal of the Forest Plan to "encourage environmentally sound energy and minerals development... [e]mphasis is placed on refinement and improvement of procedures to protect surface resources, while permitting the exploration for the extraction of mineral resources (Forest Plan, page II-61).

III. REQUIRED MITIGATION/STIPULATIONS AND MONITORING

This decision to consent to the BLM issuing the Iron Point Coal Exploration License (CEL) and approve portions of the plan of operations is conditioned on application of following stipulations derived in part from Appendix I of the Final EIS, and from mitigations identified in the analysis. In addition, consent/approval is given under terms and conditions based on other resource concerns and standard operating practices. All the stipulations, terms and conditions pertain to the Licensee responsibility for exploration activity within the CEL. At the end of each Mitigation/Stipulation, there may be a parenthetical reference (e.g.: Mitigation V-1 and V-2). This refers to where the mitigation was identified in Chapter 3 of the Final EIS. In this example the mitigation could be found in the mitigation table for the Vegetation resource.

Mitigations/Stipulations

1. The Licensee will be responsible for soil preservation/protection and final reclamation. The Licensee will be responsible for minimizing soil losses due to erosion and gullyng. Topsoil stockpiles will be located to minimize contamination or loss. Soil from mud pits will be stockpiled for use during reclamation. Rock material will be stockpiled separately. (Mitigation SO-1 and SO-2).
2. Reseeding will be completed using a certified weed free source of seed. The Licensee will be responsible for controlling spread of, and eradicating noxious weeds until final reclamation is accepted by the Forest Service. Any hay or straw used will be certified as weed free. Reseeding will be done using the following seed mixes:

For disturbance in the mountain shrub community:

<u>Species</u>	<u>percent of mix</u>
Mountain Brome	25
Prairie Junegrass	20
Western Wheatgrass	30
Indian Ricegrass	20
Cicer Milkvetch	5

This seed mixture must be 99 percent pure live seed containing a maximum of 1% weeds none of which are noxious. Seed must be distributed at 20 lbs per acre.

For disturbance in the aspen/spruce/fir community:

<u>Species</u>	<u>percent of mix</u>
Slender wheatgrass	20
Mountain Brome	30
Canby bluegrass	20
Idaho fescue	10
Blue wildrye	20

This seed mixture must be 99 percent pure live seed containing a maximum of 1% weeds none of which are noxious. Seed must be distributed at 20 lbs per acre. (Mitigations V-1 and V-3).

3. No surface occupancy will be allowed in wetland, floodplain or riparian areas. No drill pads, staging areas or storage areas will be allowed in these areas. Streams will not be paralleled by roads in these areas. (Mitigation SW-5 and Final EIS, Appendix I)
 4. The Licensee shall be required to establish a monitoring system to locate, measure, and quantify seeps and springs located near proposed drilling and road construction activities. (Mitigation GW-1).
 5. Prior to construction of any drill pad or access road, the Licensee will be required to conduct a habitat survey for migratory bird species of high Federal interest and sensitive avian species in the area to be disturbed and/or impacted. The inventory shall be conducted by a qualified specialist and a report of findings will be prepared. A plan will be prepared making recommendations for the protection of these species or action necessary to mitigate the disturbance. The cost of conducting the inventory, preparing reports and carrying out mitigating measures shall be borne by the Licensee. (Mitigations TW-1, TW-2).
 6. Roads and drill pads reconstructed by the Licensee will be returned to their pre-existing condition. Any temporary roads will be designed for minimal disturbance and will be obliterated. The reclaimed roads must be signed and blocked off to prevent motor vehicle access by the public. (Mitigation TW-3)
 7. Fueling and lubricating vehicles will be prohibited within 100 feet of streams and wetlands. No fuel storage will be allowed within 500 feet of any water bodies. (Mitigation AR-1)
 8. If cultural resources or paleontological remains (fossils) of significant scientific interest are discovered during operations under this license, the Licensee prior to disturbance shall immediately bring them to the attention of the appropriate authority. A cultural resource survey will be required where unsurveyed on all proposed disturbance areas, and necessary clearance must be gained prior to earth disturbing activity taking place.
- The Licensee shall immediately cease operations in areas where any antiquities or other objects of historic or cultural significance, or items of scientific interest are discovered. The Licensee shall bring the discovery to the attention of the District Ranger. Any such discoveries shall be left intact until the operator is permitted to proceed by the authorized officer. (Mitigation C-1).
9. The Licensee will provide proof of water right holdings prior to start of exploration drilling. Water needed in support of operations must be properly and legally obtained according to Colorado State water laws. The location of diversions, if on National Forest System lands, are subject to Forest Service review and approval. Water diversion structures, if needed, must be constructed as specified by the Forest Service. (Mitigation SW-4)
 10. The permittee/licensee will be held responsible for all damage to fences, cattle guards, resource improvements, roads, and other structures on National Forest System lands which result from their operations. The Forest Service must be notified of damages as soon as possible.
 11. Gates must be closed after entry unless otherwise specified.
 12. Operations must be coordinated with other authorized permittees to prevent conflicts.
 13. Specific approval will be required for locating drill sites in areas of moderate geologic hazards and on slopes ranging from 40 to 60 percent. (Final EIS, Appendix I)

14. Drill sites will not be allowed on slopes in excess of 60 % or in areas of high geologic hazard. (Final EIS, Appendix I).

15. With respect to bald or golden eagle nests which may be established in the CEL during the life of the project, the following shall apply:

- a. No new permanent surface facilities or disturbances shall be located within a 1/4 mile radius buffer zone around each bald or golden eagle nest site.
- b. No above ground activities will be allowed within a 1/2 mile radius buffer zone around each active eagle nest site from November 15 to July 30 for bald eagles, and around each active golden eagle nest site from February 1 to July 15.
- c. Any proposed surface facilities, disturbances or activities (noted above) in, or adjacent to, these buffer zones will require approval from the BLM or Forest Service on a site-specific basis, after consultation with the U.S. Fish and Wildlife Service.

16. With respect to other raptors (except American Kestrel) which may occur or become established on the Iron Point CEL during the life of the project, the following special stipulation shall apply:

Conduct surveys for nesting raptors on the CEL prior to development of any surface facilities. No surface activities will be allowed within 1/2 mile radius of active nest sites between the dates of February 1 and August 15, unless authorized BLM or Forest Service on a site specific basis.

17. No surface disturbance or facilities will be located in occupied southwest willow flycatcher habitat. Prior to any planned disturbance within riparian habitats on the lease, the Licensee must: 1) Survey the area of the proposed disturbance for suitable SW willow flycatcher habitat, and survey all suitable habitat for the presence of the species. All habitat and species surveys must be in accordance with the accepted U.S. Fish and Wildlife Service protocol; 2) Provide the results of all surveys to the U.S. Fish and Wildlife Service, the Uncompahgre Field Office of BLM and the Paonia Ranger District of the Forest Service; 3) If suitable habitat or individuals are located in the area, consultation with the U.S. Fish and Wildlife Service will be required to determine suitable conservation measures to prevent a "take" under Section 9 of the Endangered Species Act. Conservation measures may include avoidance of the occupied habitat, establishment of a buffer zone and seasonal restriction around occupied habitat, or others developed for the specific site. In accordance with current protocol, surveys for the presence of the species are valid for only one year.

18. Drilling activities will be prohibited from December 1 to June 15 to protect elk on the winter range and during calving season.

19. The Licensee shall provide for the suppression and control of fugitive dust on roads used by the Licensee or its contractors. (Mitigation AQ-1)

20. All drill holes must be plugged in accordance with Federal and State regulations.

21. A pre-work meeting including the responsible company representative(s), contractors, and the Forest Service must be conducted at the project location prior to commencement of

operations. Site-specific approval of drill pad locations and road work will be required. Other Forest Service requirements will be discussed at this time.

22. The Licensee shall notify the District Ranger at least one week before operations are to commence on National Forest System Lands. The District Ranger must be notified 48 hours in advance that heavy equipment will be moved onto National Forest System lands and that surface disturbing activities will commence.

23. The Forest Service must be notified of any proposed alterations to the plan of operations. Any changes to the existing plan are subject to Forest Service review and approval.

24. The Licensee will be required to obtain a Road Use Permit (RUP) from the Forest Service prior to any activity on the CEL. The RUP will detail requirements for road construction or reconstruction, and terms of use of the roads. The location of new temporary roads must be reviewed and approved by the Forest Service. No construction may begin prior to approval. Any modifications or changes to approved locations are also subject to review and approval. The Licensee will be required to observe all Forest Service road closures on roads accessing the CEL.

25. Temporary roads and drill pads will be designed to minimize erosion and sedimentation. Drill pads will not exceed 100 feet by 100 feet in size. Where ever possible, drill pads will be sized to minimize surface disturbance. Drill pads will be designed to prevent or diminish overland flow from entering the site during precipitation events. Pad sites will be sloped to drain all spills and on-sites precipitation into the mudpits. If necessary, pits will be pumped out to reduce their content and insure that overflow does not occur. Fluids will be contained and disposed of at a State approved site.

26. All surface disturbing activities including reclamation must be supervised by a responsible representative of the permittee/licensee who is aware of the terms and conditions of the projects permits/licenses. The Licensee will have an authorized representative on site at all times. A copy of the appropriate permits/licenses must be available for review at the project site and presented upon demand to any Forest Service official.

27. Disturbed areas must be reclaimed by the end of the field season. Exceptions require Forest Service approval.

28. All drilling fluids, mud and cuttings must be contained on the project site in mud pits or portable containers. The pit must not be used for disposal of garbage, trash or other refuse. Unattended pits will be fenced to keep out livestock and wildlife.

29. Mud pits must be allowed to dry or pumped before they are backfilled and reclaimed. If pumped, fluids will be disposed off Forest, at a Colorado State approved site. They must be enclosed by a 4-strand barbed wire fence while they are left to dry.

30. Drill sites, roads to be obliterated, and mud pits when they are dry, must be reclaimed by selectively backfilling excavated materials, topsoil last, such that the disturbed area is replaced to approximate original contour. The disturbed area must be seeded with the specified seed mix.

31. Reclamation efforts will be diligently pursued to insure that a minimum ground cover is established on all disturbed areas which is equal to or greater than the surrounding undisturbed areas.

32. All significant water encountered during drilling must be reported to the Forest Service, including the depth and formation at which it was encountered, and an estimate of the flow.
33. If any of the drill holes encounter artesian ground water flow, the District Ranger must be notified prior to plugging the hole to determine whether or not the Forest Service would elect to establish a permanent water development at the site.
34. Any exploration drill holes that encounter water and are selected to become long-term ground water monitoring holes will need to be brought to the attention of the Forest Service.
35. Any future proposals of campsites and staging areas on National Forest System lands in support of this project is subject to Forest Service approval.
36. Fire suppression equipment must be available to all personnel working at the project site. Equipment must include at least one hand tool per crew member consisting of shovels and pulaskis and one properly rated fire extinguisher per vehicle and/or internal combustion engine.
37. All gasoline, diesel, and steam-powered equipment must be equipped with effective spark arresters or mufflers. Spark arresters must meet Forest Service specifications discussed in the "General Purpose and Locomotive (GP/L) Spark Arrester Guide, Volume 1, April, 1988"; and "Multi-position Small Engine (MSE) Spark Arrester Guide, April, 1989". In addition, all electrical equipment must be properly insulated to prevent sparks.
38. The permittee/licensee will be held responsible for damage and suppression costs for fires started as a result of operations. Fires must be reported to the Forest Service as soon as possible.
39. The Forest Service reserves the right to suspend operations during periods of high fire potential.
40. Unauthorized off-road vehicular travel is prohibited.
41. Harassment of wildlife and livestock is prohibited.
42. Drilling equipment (except for personnel conveyance) will not be mobilized on or off the CEL area during the two days prior, on opening day, or on weekends during the first two rifle hunting seasons.
43. The licensee/operator must clean up and remove all drilling equipment, surplus materials (cement, etc.), trash, garbage, flagging, vehicles and other such materials from National Forest System lands.
44. During the drilling operations all sewage, trash, garbage and other refuse must be properly contained on the project site, and will be disposed of at authorized sites.
45. Contaminated soil and gravel must be stripped and hauled off the Forest prior to site reclamation.
46. The Forest Service will be contacted prior to any tree removal to determine payment. Payment for timber cut during road and drill pad construction or reconstruction will be made at Timber Property Settlement rates. This timber may be removed from the Forest or left. Slash

must be lopped off so that it lies within 2 feet of the ground. Trees to be cleared will be cut and not pushed over with heavy equipment and will not be buried.

47. Lands contained within this license are subject to the Forest Service Interim Rule, "Administration of the Forest Service Development Transportation System: Temporary Suspension of Road Construction and Reconstruction in Unroaded Areas", *Federal Register*/Volume 64/Friday, February 12, 1999, pages 7290 through 7305. These lands will also be subject to the final road management policy which will be set in 18 months.

No road construction will be allowed within the unroaded area until the Forest Service adopts its revised road management policy or 18 months from the effective date of this final interim rule, whichever is sooner.

48. A surface reclamation bond will be required prior to any surface disturbing activity occurring. This bond will be held until road rehabilitation work and disturbed area revegetation is accomplished to the satisfaction of the District Ranger.

49. Stipulation for Lands of the National Forest System Under Jurisdiction of the Department of Agriculture.

The licensee/permittee/lessee must comply with all the rules and regulations of the Secretary of Agriculture set forth at Title 36, Chapter II, of the Code of Federal Regulations governing the use and management of the National Forest System (NFS) when not inconsistent with the rights and regulations must be complied with for (1) all use and occupancy of the NFS prior to approval of a permit/operation plan by the Secretary of the Interior, (2) uses of all existing improvements, such as Forest Development Roads, within and outside the area licensed, permitted or leased by the Secretary of the Interior, and (3) use and occupancy of the NFS not authorized by a permit/operating plan approved by the Secretary of the Interior.

All matters related to this stipulation are to be addressed to:

Forest Supervisor
Grand Mesa, Uncompahgre and Gunnison National Forests
2250 Highway
Delta, CO 81416

who is the authorized representative of the Secretary of Agriculture.

signature of licensee/permittee/lessee

IV. PUBLIC INVOLVEMENT

As required by NEPA (40 CFR 1501.7), the BLM/Forest Service provided for an early and open process to determine the scope of issues to be addressed and to identify the issues related to this EIS. Elements in the scoping process included the following:

- Publication of a Notice of Intent to prepare an EIS in the Federal Register (dated April 13, 1999);
- The description of the Purpose and Need, and the Proposed Actions including the nature of the decisions to be made;
- The collection of existing data and information to address the two potential lease tracts and the exploration license area;
- The initiation of public and government participation in the EIS process;
- The determination of the type and extent of analysis to be used in the preparation of the EIS;
- The identification of government agencies involved and appropriate responsible officials from the lead and cooperating agencies; and,
- The plans for the preparation of the EIS, including selection of a format for the document and development of a schedule for EIS completion and publication.

The Delta/Montrose Public Land Partnership and North Fork Coal Working Group (NFCWG) sponsored several community meetings regarding coal development in the North Fork Valley. Issues, concerns, and comments identified in those meetings are also incorporated into this EIS.

On April 22, 1999, the BLM and Forest Service held an agency scoping meeting to discuss this EIS. Representatives from the BLM, Forest Service, OSM, Colorado DMG, Colorado Division of Wildlife, Delta County, and Gunnison County were present. On April 28, 1999, the lead agencies met with representatives from the U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service. On May 18, 1999, the lead agencies met with representatives of the Environmental Protection Agency (EPA). In addition, a project description and vicinity map were sent to the Northern Ute Tribe.

The purpose of these meetings was to familiarize these various federal, state, and local agencies with the various aspects of the North Fork Coal EIS and solicit their input on any issues regarding the planned work and the proposals.

As required by NEPA (40 CFR 1503), the general public, businesses, special interest groups, and government agencies were provided the opportunity to become informed and comment on this EIS process. The BLM and the Forest Service accomplished these goals by holding agency and public scoping meetings; public mailings; publishing of a Notice of Intent in the Federal Register; forming an interdisciplinary (ID) team; and preparing a scoping document.

The formal scoping process began on April 13, 1999 and ended on May 17, 1999. The BLM and the Forest Service held a public scoping meeting in Hotchkiss, Colorado on April 21, 1999.

From hearing testimony and public meeting input as well as from written comments, issues specific to the two potential coal lease tracts and the exploration license application were summarized and used as part of the criteria for completing this EIS document. Issues were used by the ID team for developing and screening alternatives, and evaluating consequences of the proposed actions. A synopsis of the issues identified for the proposed lease tracts and exploration license area is set forth in Section 1.8, Issues and Concerns, of the EIS document.

In April, July, and December 1999, newsletters were sent to individuals, organizations and agencies on the EIS mailing list to inform them on progress of the EIS and provide relevant information.

The Draft EIS was filed with the EPA and distributed to the public in late August 1999. The Notice of Availability for the Draft EIS was published in the Federal Register on September 3, 1999. In addition, the agencies transmitted press releases concerning the EIS project and process to newspaper, radio stations and television stations. The media outlets covered the North Fork Valley, Delta, Montrose, Crested Butte, Gunnison and Grand Junction areas.

A public information meeting was held on the evening of October 7, 1999 at the Hotchkiss High School (Hotchkiss, Colorado) to explain and answer questions on the Draft EIS and the coal leasing process. A formal public hearing was held on the evening of October 14, 1999 at the Hotchkiss High School for interested individuals and organizations to make oral comments and statements on the Draft EIS.

The formal comment period on the Draft EIS ended on November 3, 1999. Over 750 individual comments were received. Agency response to public comments are given in Appendix O, Public and Agency Participation and Involvement in the Draft EIS, found in the Final EIS.

Concurrent with the preparation of this EIS, the community has undertaken efforts to deal with issues related to growth and coal mining in the North Fork Valley. A broad spectrum of interests came together to form the North Fork Coal Working Group (NFCWG) and to address the issues identified. (See Final EIS Section 1.7.3, Community Efforts.)

The NFCWG is made up of local county governments, public interest groups, environmental groups, the mining companies, water user groups and concerned individuals. Other segments of the community including town and city governments, the Union Pacific Railroad, emergency service providers, and other interested groups and individuals have participated in meetings of the NFCWG and in public meetings sponsored by the NFCWG. The federal agencies have worked with the NFCWG as invited parties to provide information and resources related to the NEPA process and coal leasing in general.

The goals and objectives of the NFCWG are to work in a collaborative way and encourage the development of the community's vision for its future. The NFCWG has provided a forum to encourage community discussions, provided information and education on important issues, and developed potential mitigation and resolutions for many community issues. In conjunction with the NEPA process, the group has submitted information during scoping and provided comments on the Draft EIS.

We recognize the efforts and hard work of the NFCWG to seek common ground and to identify solutions to the problems identified by the community. As federal agencies, the BLM and the Forest Service recognize and encourage the efforts of groups like the NFCWG in addressing the off-site impacts of concern to the local community. Community based efforts, such as taken by the NFCWG, can be very helpful and constructive at resolving issues at the local level. As such, we applaud their efforts. We further believe that the Final EIS was improved as a result of the comments received from the NFCWG.

V. ISSUES CONSIDERED AND ADDRESSED

This section addresses issues and concerns considered for the Iron Point Coal Exploration License. Environmental effects are described in Chapter 3.0, Environmental Analysis, of the Final EIS. Environmental protection measures are found in Section 2.9, Reclamation Measures, Section 2.10, Management and Mitigation, and Section 2.11, Monitoring Measures, of the Final EIS.

The exploration license proposal generated only minor interest throughout the EIS process. The following describes how issues and resource concerns analyzed in the Final EIS were considered during the decision-making process. The discussion is presented in related resource categories. A listing of individual resource issues is found in Section S-1.4, Section 1.8, and at the beginning of each resource category in Chapter 3 of the Final EIS.

Air Quality. Affects to air quality as a result of this decision are estimated to be of little consequence.

Topography, Geology and Soils. Exploration activities would have no noticeable topographic impact (Final EIS, Section 3.2.3). There would be negligible effects to geologic resources as a result of exploration drilling (Final EIS, Section 3.3.3). Impacts to soils are considered to be short term and mitigatable (Final EIS, Section 3.4.3).

Surface Water and Groundwater Resources. Exploration activities are expected to have minor impacts on surface water (Final EIS, Section 3.5.3.2). No noticeable impacts to ground water resources are expected (Final EIS, Section 3.6.3).

Vegetation, Wetlands and Special Status Species. Some vegetation communities will be affected by this decision. The primary communities affected would be the Oak Brush community and the Aspen community (Final EIS, Section 3.7.3), and long-term impacts are expected to be minimal. No threatened or endangered species occur within the coal exploration area (Final EIS, Section 3.7.3). However, suitable habitat for the Hapman's Coolwort (a Forest Service sensitive species) may be present at Hubbard Falls (Final EIS Section 3.7.2.3). The spread of noxious weeds may present a concern, but would be mitigatable (Final EIS, Section 3.7.3.2 and Section III of this ROD). Stipulations require siting roads and drill pad locations outside wetland and riparian areas (Final EIS, Section 3.8.3.2 and Appendix I).

Wildlife, Aquatic Resources/Fisheries and Special Status Species. The decision would have effects to habitat capability for deer and elk, although this impact is mitigatable (Final EIS, Section 3.9.4 and Section III of this ROD). Habitat losses to other terrestrial species would be minor (Final EIS, Section 3.9.3.2). The effects to aquatic and special status species is expected to be minor (Final EIS, Section 3.10.3.2).

Cultural Resources. The CEL area is considered to have low potential for cultural resource sites (Final EIS, Section 3.11.2.5).

Noise. Noise generated from exploration activities would be of limited duration and would not create a nuisance to the public (Final EIS, Section 3.12.3.2)

Land Use. This decision will have no lasting effects on the existing land uses (Final EIS, Section 3.13.3). However, some short term impacts to grazing management may occur (Final EIS, 3.13.3.1), but can be controlled (see Section III of this ROD).

Transportation. This decision would have very minor effects to public transportation (Final EIS, Section 3.14.3.2). There will be effects to the Forest Road system in the CEL area, however required mitigations will buffer these effects (See Section III of this ROD).

Socioeconomics. This decision will not directly affect the socioeconomic situation of the area.

VI. ALTERNATIVES CONSIDERED

For the analysis of the coal exploration license, two alternatives were considered: the No-Action Alternative and the Proposed Action Alternative.

Alternative A - No-Action

This alternative assumes that the exploration license would be denied.

Alternative B - Proposed Action

Under this action alternative, the applicant proposed to drill 25 exploration holes. Holes would be rotary drilled to predetermined depths, cased as necessary, and the coal zone would be cored. The EIS examined the broader effects of exploration in the delineated license area, and can be relied upon to assess granting the license and approving specific hole locations.

VII. FINDINGS REQUIRED BY OTHER LAWS

Numerous laws require that decisions be consistent with their provisions. The Final EIS and this ROD complies, or is consistent with, all applicable laws including but not limited to those listed below. In addition, a number of federal, state, and local permits and approvals would be required for actual operations on the Iron Point Coal Exploration License. See Appendix B, Agency Jurisdictions (Permits and Approvals), in the Final EIS.

A. National Forest Management Act (16 USC 1600 et seq.): The Grand Mesa-Uncompahgre-Gunnison National Forests Land and Resource Management Plan (Forest Plan) was approved September 29, 1983 as required by this Act. The Forest Plan was amended September 23, 1991. The Forest Plan provides direction and guidance for all resource management activities on the Forest. This management direction is achieved through the establishment of Forest goals and objectives, standards and guidelines, and Management Unit direction. Project implementation consistent with this direction is the process by which we move toward the desired condition described by the Forest Plan. Forest Plan direction provides the sideboards for project planning. The Final EIS displays the Forest Plan and Management Unit goals and objectives and the standards and guidelines applicable to the Iron Point Coal Lease Tract (Final EIS, Section 1.6.2). The alternative development process and the management goals of the alternatives are described in the Final EIS, Chapter 2, while the environmental consequences of the alternatives are displayed in the Final EIS, Chapter 3. The decision is consistent with Forest Plan direction.

B. Federal Land Policy and Management Act of 1976: This Act allows the granting of land use permits on National Forest System lands. The regulations at Code of Federal Regulations Title 36 Part 251 (36 CFR 251) guide the issuance of permits under this Act. Land use permits are granted on National Forest System lands when the need for such is consistent with planned uses. The decision is consistent with this Act.

C. National Environmental Policy Act of 1969 (NEPA) The analysis in support of this decision was performed under the authorization and regulations set forth in NEPA. Due NEPA process was followed including public scoping (Final EIS, Section 1.7 and Section IV of this ROD), identification of issues (Final EIS, Section 1.8 and Section V of this ROD), development of alternatives (Final EIS, Section 2.0 and Section VI of this ROD), disclosure of environmental consequences (Final EIS, Chapter 3), and public comment (Final EIS, Volume 2, Appendix O and Section IV of this ROD). The entirety of documentation for this project supports compliance with this Act.

D. Mineral Leasing Act of 1920, as Amended by Federal Coal Leasing Amendments Act of 1975: The proposed exploration license was processed under authority of the Mineral Leasing Act 1920, as amended by the Federal Coal Leasing Amendments Act of 1975 and other laws. The Mineral Leasing Act authorizes BLM to process, issue, and administer licenses in accordance with other appropriate laws, regulations and authorities. It requires consent of the surface management agency for leasing and provides for the surface management agency to require such conditions as it may prescribe with respect to the use and protection of the non-mineral interests in those lands. In regard to the proposed actions, the Forest Service is the surface management agency. The decision is consistent with these authorities.

E. Surface Mining Control and Reclamation Act of 1977 (SMCRA): This evaluation was completed understanding that the regulations contained in SMCRA and the subsequent Federal Regulations, and the approved Colorado Surface Coal Mining Reclamation Act will be implemented at the permitting phase (Final EIS, Section 1.5). These acts authorize Colorado

Division of Minerals and Geology to administer/enforce approved coal mining operations, including exploration drilling, on Federal lands with prior consent/concurrence of the surface management agency and conditions prescribed by the surface management agency for the protection of non-mineral interests. The Forest Service is the surface management agency. The decision is consistent with these authorities.

G. The Endangered Species Act (16 USC 1531 et. seq.): In accordance with Section 7 (c) of the Endangered Species Act, as amended, a list of the listed and proposed threatened or endangered species which may be present in the Iron Point Coal Exploration License Area was requested from the US Fish and Wildlife Service (USFWS) (Final EIS, Table 3.9-1). The information provided indicated that bald eagle is a wintering species along the North Fork of the Gunnison River, near the CEL. It was also identified that suitable habitat for the southwest willow flycatcher may be present near the CEL.

As required by the Act, Biological Assessments were prepared addressing the potential impacts to these species (administrative record). The analyses concluded that this project would have no effects to important or critical habitats for the bald eagle or the southwest willow flycatcher (Final EIS, Section 3.9.3.2) or the Colorado River endangered fish species (Final EIS, 3.10.3.2). This assessment has been reviewed by the USFWS who issued a biological opinion on November 2, 1999.

H. Forest Service Manual 2607.32 - Sensitive Species: The potential effects of this decision on sensitive species (Hapman's Coolwort, Spotted bat, Townsend's big-eared bat, Northern goshawk, Flammulated owl, Three-toed woodpecker, Black swift, Olive-sided flycatcher, Golden-crowned kinglet, Loggerhead shrike, Tiger salamander, Boreal toad and Northern leopard frog) have been analyzed and documented in Sections 3.7.3.5 and 3.9.3 of the Final EIS and the Biological Evaluation in the administrative record. Individuals or habitat may be affected, but there will be no trend towards Federal listing or loss of viability of any of the sensitive species due to this decision.

I. National Historic Preservation Act: SHPO was involved throughout the NEPA process. The Northern Ute Tribe was consulted on this project (Final EIS, Section 3.11.4). The purpose of this consultation was to identify tribal concerns with the project and to identify any sites to which traditional cultural values may be ascribed. The Northern Ute Tribe did not raise any concerns.

J. Secretary of Agriculture Memorandum, 1827: The decision is in conformance for prime farmland, rangeland and forestland.

K. Clean Water Act: The Clean Water Act (CWA) requires each State to implement its own water quality standards. This decision is consistent with the Act.

L. Executive Order 119900 of May, 1977: This order requires the Forest Service to take action to minimize destruction, loss, or degradation of wetlands and to preserve and enhance the natural and beneficial values of wetlands. In compliance with this order, Forest Service direction requires that an analysis be completed to determine whether adverse impacts would result (see Final EIS, Section 3.8). This decision is in compliance with this order.

M. Executive Order 11988 of May, 1977: This order requires the Forest Service to provide leadership and to take action to (1) minimize adverse impacts associated with occupancy and modification of floodplains and reduce risks of flood loss, (2) minimize impacts of floods on human safety, health, and welfare, and (3) restore and preserve the natural and beneficial values served by floodplains. The decision is consistent with this order.

N. Civil Rights: Based on comments received during scoping and the comment period for the Draft EIS, no conflicts have been identified with other Federal, State, or local agencies, tribal governments, minorities, women, or civil rights of any United States Citizen that would result from this decision.

O. Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-income Populations.": Based on comments received during scoping and the comment period for the Draft EIS, no adverse environmental or human health effects on minority or low income populations have been identified that would result from this decision (Final EIS, Section 1.11).

P. Clean Air Act. The Clean Air Act of 1977 calls in part for preservation and protection of air quality in Class I areas. The analysis showed negligible effects to air quality. The decision is consistent with this Act.

Q. Forest Service Interim Road Policy. The Forest Service Interim Road Policy restricts road construction or reconstruction in unroaded areas. The Iron Point Coal Exploration License does not fall within unroaded areas.

VIII. ENVIRONMENTALLY PREFERRED ALTERNATIVE

The Council on Environmental Quality regulations at 40 CFR 1508.2(b) require an agency to specify the alternative or alternatives which were considered to be the alternatively preferable in the process of reaching its decision. The definition of environmentally preferable is the alternative which causes the least damage to the physical and biological environment, and which best protects, preserves, and enhances historic, cultural, and natural resources.

Alternative A, the No-Action Alternative, best meets this definition. Alternative A would result in no exploration activities under the existing NEPA document. No additional disturbance would take place. Alternative A was not selected, because it would not meet the purpose and need for the project.

Alternative B is the most environmentally preferable action alternative for coal exploration. This alternative with the added mitigations would allow for special protection to other resources.

IX. ADMINISTRATIVE REVIEW OR APPEAL PROCEDURES

Forest Service decisions are subject to an appeal pursuant to 36 CFR 215.7. A written appeal must be submitted within 45 days after publication of the notice of this Decision in the Grand Junction Daily Sentinel.

Appeals must be submitted to:

USDA Forest Service
Rocky Mountain Region
Attn: Tom Thompson, Appeals Deciding Officer
740 Simms
Golden, CO 80401

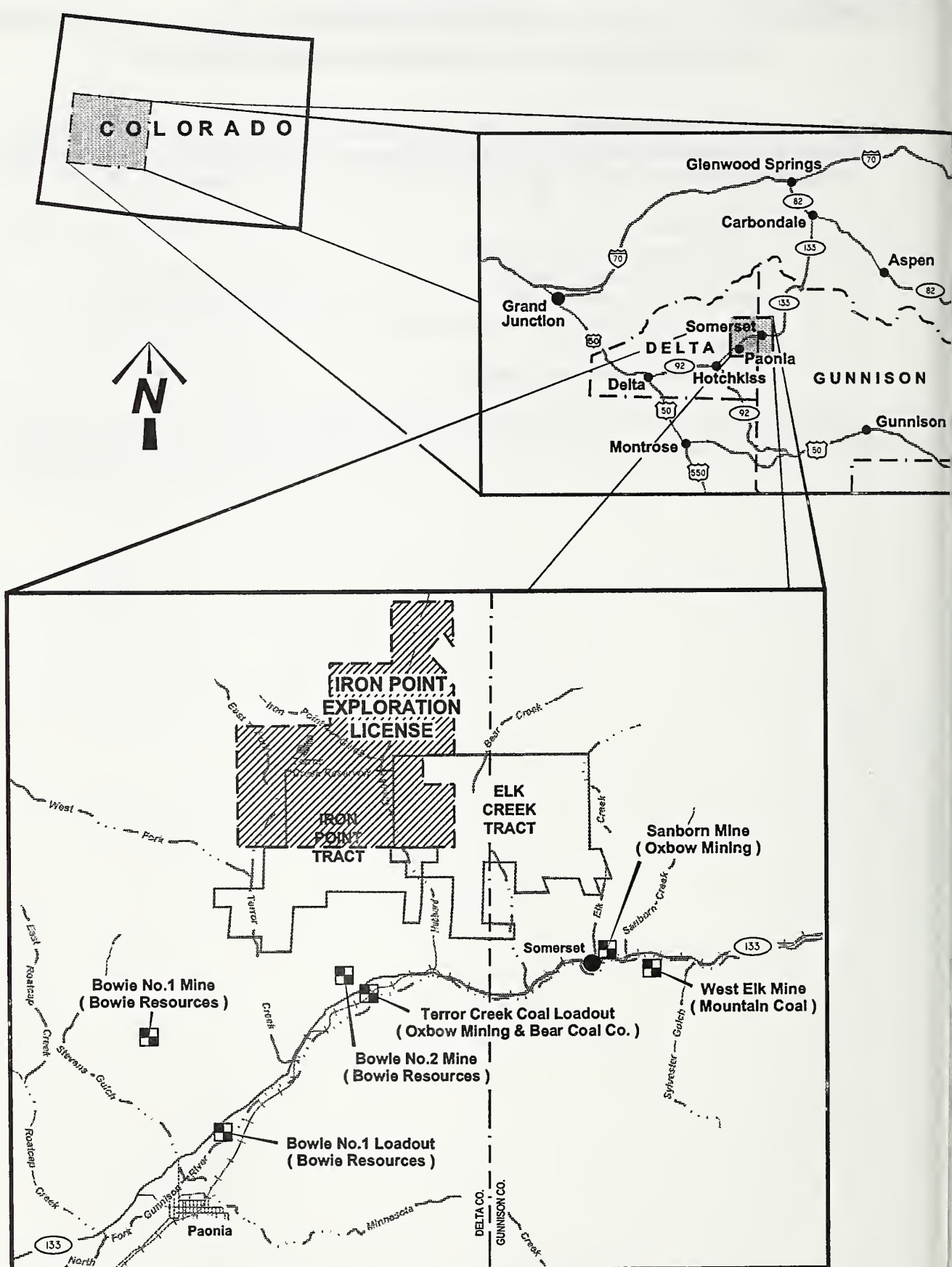
Appeals must meet the content requirements of 36 CFR 215.14. If no appeal is received, implementation of the Forest Service may occur on, but not before, five business days from the close of the appeal filing period.

X. CONTACT PERSON

The Draft and Final EIS documents, along with records of the environmental analysis are available for public review at the BLM office in Montrose, Colorado, and the Forest Service, GMUG office in Delta, Colorado. For further information on this decision, contact:

Jerry Jones
BLM Uncompahgre Field Office
2465 S. Townsend Avenue
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IRON POINT EXPLORATION LICENSE - RECORD OF DECISION
FIGURE 1
GENERAL LOCATION MAP

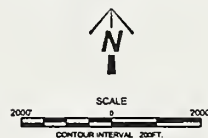


EXPLANATION

- PROPOSED IRON POINT COAL EXPLORATION LICENSES BOUNDARY
- IP99-1 ● APPROVED DRILL HOLE (Federal Surface)
- PROPOSED EXPLORATION ACCESS (Existing Roads)
- - - - - NEW ACCESS ROAD (Temporary)
- - - - - FOREST SERVICE BOUNDARY

NOTE:

- (1). Drilling activities must occur within 2 year period.
- (2). All drilling must comply with Forest Service / BLM stipulations.
- (3). Reclamation of drill sites and new road access is required.



IRON POINT EXPLORATION LICENSE - RECORD OF DECISION

FIGURE 2

IRON POINT EXPLORATION LICENSE



NATIONAL AGRICULTURAL LIBRARY



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